



House of Representatives

General Assembly

File No. 473

February Session, 2008

Substitute House Bill No. 5877

House of Representatives, April 4, 2008

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING TERMS OF PROBATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-29 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3 (a) The court may sentence a person to a period of probation upon
4 conviction of any crime, other than a class A felony, if it is of the
5 opinion that: (1) Present or extended institutional confinement of the
6 defendant is not necessary for the protection of the public; (2) the
7 defendant is in need of guidance, training or assistance which, in [his]
8 the defendant's case, can be effectively administered through
9 probation supervision; and (3) such disposition is not inconsistent with
10 the ends of justice.

11 (b) The court may impose a sentence of conditional discharge for an
12 offense, other than a class A felony, if it is of the opinion that: (1)
13 Present or extended institutional confinement of the defendant is not
14 necessary for the protection of the public; and (2) probation

15 supervision is not appropriate.

16 (c) When the court imposes a sentence of conditional discharge, the
17 defendant shall be released with respect to the conviction for which the
18 sentence is imposed but shall be subject, during the period of such
19 conditional discharge, to such conditions as the court may determine.
20 The court shall impose the period of conditional discharge authorized
21 by subsection (d) of this section and shall specify, in accordance with
22 section 53a-30, the conditions to be complied with. When a person is
23 sentenced to a period of probation the court shall impose the period
24 authorized by subsection (d), (e) or (f) of this section and may impose
25 any conditions authorized by section 53a-30. When a person is
26 sentenced to a period of probation, [he] such person shall pay to the
27 court a fee of two hundred dollars and shall be placed under the
28 supervision of the Court Support Services Division.

29 (d) [The] Except as provided in subsection (f) of this section, the
30 period of probation or conditional discharge, unless terminated sooner
31 as provided in section 53a-32 or 53a-33, shall be as follows: (1) For a
32 [felony, except as provided in subsection (e) of this section] class B
33 felony, not more than five years; (2) for a class C or D felony or an
34 unclassified felony, not more than three years; (3) for a class A
35 misdemeanor, not more than [three] two years; [(3) for a class B
36 misdemeanor, not more than two years;] (4) for a class B or C
37 misdemeanor, not more than one year; and (5) for an unclassified
38 misdemeanor, not more than one year if the authorized sentence of
39 imprisonment is three months or less, or not more than two years if the
40 authorized sentence of imprisonment is in excess of three months, or
41 where the defendant is charged with failure to provide subsistence for
42 dependents, a determinate or indeterminate period.

43 (e) Notwithstanding the provisions of subsection (d) of this section,
44 the court may, in its discretion, on a case by case basis, sentence a
45 person to a period of probation which period, unless terminated
46 sooner as provided in section 53a-32 or 53a-33, shall be as follows: (1)
47 For a class C or D felony or an unclassified felony, not more than five

48 years; (2) for a class A misdemeanor, not more than three years; and (3)
49 for a class B misdemeanor, not more than two years.

50 [(e)] (f) The period of probation, unless terminated sooner as
51 provided in section 53a-32, shall be not less than ten years or more
52 than thirty-five years for conviction of a violation of subdivision (2) of
53 subsection (a) of section 53-21 of the 2008 supplement to the general
54 statutes or section 53a-70, 53a-70a, 53a-70b, 53a-71 of the 2008
55 supplement to the general statutes, 53a-72a, 53a-72b, 53a-90a of the
56 2008 supplement to the general statutes, 53a-196b, 53a-196c of the 2008
57 supplement to the general statutes, 53a-196d of the 2008 supplement to
58 the general statutes, 53a-196e of the 2008 supplement to the general
59 statutes or 53a-196f of the 2008 supplement to the general statutes.

60 (g) Whenever the court sentences a person, on or after the effective
61 date of this section, to a period of probation of more than two years for
62 a class C or D felony or an unclassified felony or more than one year
63 for a class A or B misdemeanor, the probation officer supervising such
64 person shall submit a report to the sentencing court not later than sixty
65 days prior to the date such person completes two years of such
66 person's period of probation for such felony or one year of such
67 person's period of probation for such misdemeanor setting forth such
68 person's progress in addressing such person's assessed needs and
69 complying with the conditions of such person's probation. The
70 probation officer shall recommend, in accordance with guidelines
71 developed by the Judicial Branch, whether such person's sentence of
72 probation should be continued for the duration of the original period
73 of probation or be terminated. Not later than sixty days after receipt of
74 such report, the sentencing court shall continue the sentence of
75 probation or terminate the sentence of probation. Notwithstanding the
76 provisions of section 53a-32, the parties may agree to waive the
77 requirement of a court hearing. The Court Support Services Division
78 shall establish within its policy and procedures a requirement that any
79 victim be notified whenever a person's sentence of probation may be
80 terminated pursuant to this subsection. The sentencing court shall
81 permit such victim to appear before the sentencing court for the

82 purpose of making a statement for the record concerning whether such
83 person's sentence of probation should be terminated. In lieu of such
84 appearance, the victim may submit a written statement to the
85 sentencing court and the sentencing court shall make such statement a
86 part of the record. Prior to ordering that such person's sentence of
87 probation be continued or terminated, the sentencing court shall
88 consider the statement made or submitted by such victim.

89 Sec. 2. Subsection (a) of section 20-341 of the 2008 supplement to the
90 general statutes is repealed and the following is substituted in lieu
91 thereof (*Effective October 1, 2008*):

92 (a) Any person who wilfully engages in or practices the work or
93 occupation for which a license is required by this chapter without
94 having first obtained an apprentice permit or a certificate and license
95 for such work, or who wilfully employs or supplies for employment a
96 person who does not have a certificate and license for such work, or
97 who wilfully and falsely pretends to qualify to engage in or practice
98 such work or occupation, or who wilfully engages in or practices any
99 of the work or occupations for which a license is required by this
100 chapter after the expiration of such person's license, shall be guilty of a
101 class B misdemeanor, provided no criminal charges shall be instituted
102 against such person pursuant to this subsection unless the work
103 activity in question is reviewed by the Commissioner of Consumer
104 Protection, or the commissioner's authorized agent, and the
105 commissioner or such agent specifically determines, in writing, that
106 such work activity requires a license and is not the subject of a bona
107 fide dispute between persons engaged in any trade or craft, whether
108 licensed or unlicensed. Notwithstanding the provisions of subsection
109 (d) or (e) of section 53a-29, as amended by this act, and subsection (d)
110 of section 54-56e of the 2008 supplement to the general statutes, if the
111 court determines that such person cannot fully repay any victims of
112 such person within the period of probation established in subsection
113 (d) or (e) of section 53a-29, as amended by this act, or subsection (d) of
114 section 54-56e of the 2008 supplement to the general statutes, the court
115 may impose probation for a period of not more than five years. The

116 penalty provided in this subsection shall be in addition to any other
117 penalties and remedies available under this chapter or chapter 416.

118 Sec. 3. Subsection (a) of section 20-417e of the general statutes is
119 repealed and the following is substituted in lieu thereof (*Effective*
120 *October 1, 2008*):

121 (a) In addition to any other remedy provided for in sections 20-417a
122 to 20-417j, inclusive, any person who violates any provision of
123 subsection (d) of section 20-417d shall be guilty of a class A
124 misdemeanor. Notwithstanding subsection (d) or (e) of section 53a-29,
125 as amended by this act, or section 54-56e of the 2008 supplement to the
126 general statutes, if the court determines that a new home construction
127 contractor cannot fully repay any victim of the violations committed
128 by such contractor within the period of probation established in
129 subsection (d) or (e) of section 53a-29, as amended by this act, or
130 section 54-56e of the 2008 supplement to the general statutes, the court
131 may impose probation for a period of not more than five years.

132 Sec. 4. Subsection (c) of section 20-427 of the general statutes is
133 repealed and the following is substituted in lieu thereof (*Effective*
134 *October 1, 2008*):

135 (c) In addition to any other remedy provided for in this chapter, (1)
136 any person who violates any provision of subsection (b) of this section,
137 except subdivision (8), shall be guilty of a class B misdemeanor and (2)
138 any person who violates the provisions of subdivision (8) of subsection
139 (b) of this section shall be guilty of a class B misdemeanor if the home
140 improvement that is offered or made has a total cash price of ten
141 thousand dollars or less and shall be guilty of a class A misdemeanor if
142 the home improvement that is offered or made has a total cash price of
143 more than ten thousand dollars. Notwithstanding subsection (d) or (e)
144 of section 53a-29, as amended by this act, or section 54-56e of the 2008
145 supplement to the general statutes, if the court determines that a
146 contractor cannot fully repay his victims within the period of
147 probation established in subsection (d) or (e) of section 53a-29, as
148 amended by this act, or section 54-56e of the 2008 supplement to the

149 general statutes, the court may impose probation for a period of not
150 more than five years. A violation of any of the provisions of this
151 chapter shall be deemed an unfair or deceptive trade practice under
152 subsection (a) of section 42-110b.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	53a-29
Sec. 2	<i>October 1, 2008</i>	20-341(a)
Sec. 3	<i>October 1, 2008</i>	20-417e(a)
Sec. 4	<i>October 1, 2008</i>	20-427(c)

Section 1	<i>October 1, 2008</i>	53a-29
Sec. 2	<i>October 1, 2008</i>	20-341(a)
Sec. 3	<i>October 1, 2008</i>	20-417e(a)
Sec. 4	<i>October 1, 2008</i>	20-427(c)

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Judicial Department (Probation & Adult Services); Comptroller - Adjudicated Claims Account	GF - Savings	None	Significant
Judicial Dept.	GF - Cost	None	Less than 10,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill reduces the maximum probation term for certain offense classes. This change applies to sentences imposed on or after October 1, 2008. Approximately 2,000 probation clients would qualify to have their probation terms reduced under the bill. Removing these clients from the probation caseload would yield annual state savings estimated to be \$7.5 million including the salaries of 75 Adult Probation Officers, associated expenses and fringe benefits, as well as services.

The savings indicated above would begin to accrue in FY 10 as the reduced probation terms begin to take effect, and would continue to build until it is fully annualized in FY 13. To the extent that the 75 Adult Probation Officers are retained in order to reduce caseloads¹, or funding for services is reallocated to serve the approximate 54,000 probation clients remaining under supervision, the savings indicated above would not take place.

The bill requires probation officers to submit progress reports

¹ Note that the Judicial Department has approximately 150 fewer Adult Probation Officers than needed to comply with recommended caseload standards.

concerning probationers to the court prior to expiration of their probation terms imposed under the bill. Upon receipt of these reports, the sentencing court must decide to continue probation or terminate it. Victims must be notified of these hearings, and have an opportunity to appear before the court or submit a written statement. The Judicial Department would incur a minimal annual cost to notify victims of these proceedings. It is anticipated that the Judicial Department could prepare progress reports and conduct hearings under the bill without requiring additional resources.

The Out Years

The annualized ongoing fiscal impacts identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5877*****AN ACT CONCERNING TERMS OF PROBATION.*****SUMMARY:**

Current law allows the court to sentence an offender to a term of probation up to a maximum number of years based on the classification of the offense. This bill reduces that maximum probation term for (1) class C, D, and unclassified felonies from five to three years; (2) class A misdemeanors from three to two years; and (3) class B misdemeanors from two years to one. But it also gives the court discretion to continue to sentence someone up to the maximum probation terms provided in current law, on a case-by-case.

The bill requires a person's probation officer to submit a progress report to the sentencing court if the person was sentenced to more than a certain number of years of probation for one of these felonies or misdemeanors. The court must then consider the report and any victim statement to decide whether to continue or terminate the person's probation. These provisions only apply to sentences imposed on or after October 1, 2008.

The bill also reduces the maximum terms of conditional discharge to which a court can sentence an offender. The bill reduces the term for:

1. class C, D, and unclassified felonies from 5 years to 3 years;
2. class A misdemeanors from three years to two years; and
3. class B misdemeanors from two years to one year.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2008

PROBATION TERMS

Table 1 displays the changes to probation terms that a court can sentence an offender to under current law and the bill.

Table 1: Probation terms under current law and the bill.

Type of Offense	Current Law Maximum Term	Under the Bill	
		Maximum Term	Case-by-Case Maximum Term
Felonies			
Class C	5 Years	3 Years	5 Years
Class D	5 Years	3 Years	5 Years
Unclassified	5 Years	3 Years	5 Years
Misdemeanors			
Class A	3 Years	2 Years	3 Years
Class B	2 Years	1 Year	2 Years

Under current law, unchanged by the bill, a court cannot sentence someone convicted of a class A felony to probation, the maximum period of probation for a class B felony is five years, and the probation period for certain sex offenders is between 10 and 35 years.

PROBATION OFFICER'S REPORT, VICTIMS, AND COURT DECISION

The bill requires a person's probation officer to submit a progress report to the sentencing court within 60 days of the (1) two-year mark in the probation term of someone sentenced to more than two years of probation for a class C or D felony or an unclassified felony or (2) one-year mark in the probation term of someone sentenced to more than

one year of probation for a class A or B misdemeanor.

The report must describe the probationer's progress in addressing his or her assessed needs and compliance with probation conditions. The officer must recommend, under guidelines the Judicial Branch develops, whether the probation period should continue or terminate.

Within 60 days of receiving the report, the sentencing court must either continue or terminate the person's probation. The parties can agree to waive a court hearing.

The Judicial Branch's Court Support Services Division's policies and procedures must require notification of any victim when someone's probation may be terminated. The court must allow the victim to (1) appear and make a statement for the record about whether to terminate the probation period or (2) submit a written statement that the court makes part of the record. The court must consider a victim's statement before continuing or terminating the probation period.

BACKGROUND

Probation and Conditional Discharge

By law, the court can sentence someone to probation if (1) present or extended institutional confinement is not necessary to protect the public, (2) the defendant needs guidance, training, and assistance that can be effectively administered through probation supervision, and (3) it is not inconsistent with the ends of justice (CGS § 53a-29(a)).

By law, the court can impose a sentence of conditional discharge if (1) present or extended institutional confinement is not necessary to protect the public and (2) probation supervision is not appropriate (CGS § 53a-29(b)).

By law, if a person violates the conditions of probation or conditional discharge, the court can continue the sentence of probation or conditional discharge, modify or enlarge the conditions, extend the time period up to the amount of the maximum allowed for the crime, or revoke the probation or conditional discharge (CGS § 53a-32).

By law the court or sentencing judge can terminate a sentence of probation or conditional discharge for good cause at any time after a hearing except for certain sex offenders (CGS § 53a-33).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 41 Nay 1 (03/17/2008)